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6 UNITED STATES BANKRUPTCY COURT

7 DISTRICT OF OREGON

8 *In re*

9 JAMES JOEL HOLMAN and CANDICE  
10 EVANGELINE HOLMAN,

11 Debtors.

Case No. 14-35381-rld7

12 DWIGHT and LAURA DANIELS,  
13 husband and wife,

14 Plaintiffs,

15 v.

16 JAMES JOEL HOLMAN and CANDICE  
17 EVANGELINE HOLMAN,

Defendants.

Adversary Proceeding No. 14-03285-rld

**PLAINTIFFS' RESPONSE TO  
DEFENDANTS' CONCISE STATEMENT  
OF FACTS REGARDING DEFENDANTS'  
MOTION FOR PARTIAL SUMMARY  
JUDGMENT AND PLAINTIFFS'  
CONCISE STATEMENT OF FACTS IN  
OPPOSITION**

18 **RESPONSE TO STATEMENT OF FACTS**

19 Come now Plaintiffs, Dwight and Laura Daniels ("Plaintiffs") and pursuant to LBR  
20 7056-1(b) provide their response to Defendants' Concise Statement of Facts Regarding  
21 Defendants' Motion for Partial Summary Judgment and Plaintiffs' Concise Statement of Facts in  
22 Opposition to Defendants' Motion. Plaintiffs admit, deny and allege as follows:

- 23 1. As to Defendants' first Statement of Fact, admit.  
24 2. As to Defendants' second Statement of Fact, admit.  
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26 Page 1 – PLAINTIFFS' RESPONSE TO DEFENDANTS'  
CONCISE STATEMENT OF FACTS REGARDING  
DEFENDANTS' MOTION FOR PARTIAL SUMMARY  
JUDGMENT AND PLAINTIFFS' CONCISE STATEMENT OF  
FACTS IN OPPOSITION

SLINDE NELSON STANFORD  
111 SW 5th Avenue, Suite 1940  
Portland, Oregon 97204  
p. 503.417.7777; f. 503.417.4250

1           3.     As to Defendants' third Statement of Fact, deny. (See Plaintiffs' response to  
2 Defendants' Request for Admission No. 3.)

3           4.     As to Defendants' fourth Statement of Fact, upon information and belief, admit.

4           5.     As to Defendants' fifth Statement of Fact, Plaintiffs can neither admit nor deny.

5           6.     As to Defendants' sixth Statement of Fact, admit that Candice Holman signed the  
6 Promissory Note and Trust Deed to Plaintiffs.

7                           **ADDITIONAL CONCISE STATEMENT OF FACTS**

8           As additional Concise Statement of Facts, Plaintiffs states as follows:

9           1.     Plaintiffs agreed to loan Defendants \$300,000 to both James Holman and Candice  
10 Holman in 2011.

11          2.     The loan was evidenced by a secured Promissory Note dated February 24, 2001  
12 which was executed by both James Holman and Candice Holman. See Exhibit 1 to Plaintiffs'  
13 Complaint To Determine Dischargeability of Debt and for Damages and Exhibit 2 to Declaration  
14 of Darian Stanford In Support of Plaintiffs' Opposition to Defendants' Motion for Partial  
15 Summary Judgment ("Stanford Dec.").

16          3.     The loan was secured by a Deed of Trust in Defendants' personal residence at  
17 26280 Milk Creek Circle, which was executed by both James and Candice Holman (see Exhibit  
18 2 to Plaintiffs' Complaint and Exhibit 3 to Stanford Dec.) as well as through Dwight Daniels  
19 being listed as a beneficiary in connection with a life insurance policy. That assignment was  
20 acknowledged by Candice Holman. Exhibit 4 to Stanford Dec. Further, the loan was secured  
21 through a UCC-1 Financing Statement identifying Dwight Daniels as the secured party and PCS  
22 as the debtor. See Exhibit 4 to Plaintiffs' Complaint.

23          4.     At or around time of the loan, Defendants provided Plaintiffs with an unsigned  
24 personal financial statement indicating a certain amount of equity in the Milk Creek home which  
25 included alleged market value and an alleged mortgage. That statement includes James

1 Holman's information as an "applicant" and Candice Holman's information as a "co-applicant".  
2 See Exhibit 5 to Plaintiffs' Complaint and Exhibit 5 to Stanford Dec.

3 5. The amount owed on the home and the value of home were misrepresented on the  
4 Personal Financial Statement.

5 6. In August of 2011, Plaintiffs' UCC-1 Financing Statement was terminated  
6 without any notification to Plaintiffs. See Exhibit 6 to Plaintiffs' Complaint. The termination is  
7 unsigned and there is no specific reference as to who terminated the UCC-1.

8  
9 DATED: July 17, 2015.

10 SLINDE NELSON STANFORD

11 By: 

12 Darjan A. Stanford, OSB No. 994491  
13 R. Hunter Bitner, II, OSB No. 011146  
14 *Of Attorneys for Dwight and Laura Daniels*

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**CERTIFICATE OF SERVICE**

I hereby certify that I served the attached **PLAINTIFFS' RESPONSE TO DEFENDANTS' CONCISE STATEMENT OF FACTS REGARDING DEFENDANTS' MOTION FOR PARTIAL SUMMARY JUDGMENT AND PLAINTIFFS' CONCISE STATEMENT OF FACTS IN OPPOSITION** on the following person(s) on the date indicated below:

Paul B. Heatherman  
Law Offices of Paul Heatherman PC  
250 NW Franklin Ave, #402  
Bend, OR 97701  
*Of Attorneys for Debtors-Defendants*

By the following indicated method(s):

- ☐ By **emailing** full, true, and correct copies thereof to say attorney to the email address noted above, which is the last known email address for said attorney, on the date set forth below.
- ☒ By notice of electronic filing using the E-filing system (UTCR 21.010).
- ☐ By causing full, true and correct copies thereof to be **mailed** to the attorney(s) at the attorney(s) last-known office address (as) listed above on the date set forth below.

DATED: July 17, 2015.

SLINDE NELSON STANFORD

By: 

Darian A. Stanford, OSB No. 994491  
R. Hunter Bitner II, OSB No. 011146  
*Of Attorneys for Dwight and Laura Daniels*